Universal State Personnel System Policy

Americans with Disabilities Act As Amended (ADAAA) Compliance



Generally: The State of Colorado prohibits discrimination against qualified individuals with mental or physical disabilities in job application procedures, selection, discipline and termination, advancement, compensation, job training, and other terms and conditions of employment as required by the Americans with Disabilities Act As Amended, 2008 (ADAAA). Further, the State will make reasonable accommodations to the known disability so that qualified persons with physical and mental disabilities can compete for and perform their jobs if it would not impose an undue hardship to the employer. This Policy covers all applicants and employees in the state personnel system.

The State prohibits retaliation against an individual for opposing employment practices that discriminate based on disability or for filing a discrimination charge, testifying, or participating in any way in an investigation, proceeding, or litigation under the ADA.

Definitions:

Disability: A physical or mental impairment that substantially limits one or more major life activities; a person with a record of such an impairment; or a person who is regarded as having such an impairment.

Qualified: An individual who can perform the essential functions of his/her present job, or other available jobs at a comparable salary and at a comparable level of responsibility, for which he/she qualifies with or without reasonable accommodation(s).

Essential Functions: Job tasks that are fundamental to the nature of the job and not marginal.

Major Life Activities:

A. In general major life activities include, but are not limited to: caring for oneself, performing manual tasks, walking, standing, lifting, bending, seeing, hearing, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working.

B. A major life activity also includes the operation of a major bodily function which includes but is not limited to: functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

Major Life Activity of Working: Significantly restricted ability to perform either a class of jobs or a broad range of duties in various job classes, when compared to the average person having comparable training, skills, and abilities.

Reasonable Accommodation: (i) Modifications or adjustments to the work environment, or to the manner or circumstances under which the duties of the position are customarily performed, that enable a qualified person with the disability to perform the essential functions of the position; or (ii) modifications or adjustments to a job or work environment that enable an employee with a disability to receive substantially equal benefits and privileges of employment as similarly situated employees without disabilities.

Substantially Limits a Major Life Activity: An impairment substantially limits a major life activity when it restricts the activity as to the conditions, manner, or duration under which the person can perform the activity in comparison to the average person in the general population. Some factors to consider are:

- i) The nature and severity of the impairment;
- ii) The duration or expected duration of the impairment; and
- iii) The permanent or long-term impact, or the expected permanent or long-term impact of or resulting from the impairment.

Undue Hardship: The responsibility of an employer to provide reasonable accommodation(s) is limited to those situations in which making the accommodation would not create an undue hardship to the employer. Undue hardship means an accommodation involving significant difficulty or expense for the employer—i.e., one that is excessive in cost, disruptive, would substantially impede completion of the employer's mission, would create a danger to the employee or others, or would fundamentally alter the nature of the position.

Prohibitions. It is a violation of this policy to discriminate in employment opportunities, benefits or privileges, or to create discriminatory work conditions or use discriminatory work conditions or evaluative standards if the basis of the discrimination is the employee's physical or mental disability.

Guidance and Assistance. Consult with the Department ADA Coordinator, Civil Rights Office or Human Resources Office to determine your rights and responsibilities under the ADA, including, but not limited to:

- 1. What conditions are covered;
- 2. What employers can and cannot do;
- 3. What accommodations are appropriate;
- 4. Determination of employee's ability to perform the essential functions of his/her job, with or without reasonable accommodation(s); and
- 5. Guidance to ensure consistent compliance with the requirements of the Americans With Disabilities Act As Amended (ADAAA).